

Schrock

ROUGH DRAFT

11/20/12

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL

Introduced by

Read first time

Committee:

A BILL

- 1 FOR AN ACT relating to storm water drainage; to amend sections
2 18-501 to 18-505 and sections 18-507 to 18-510, Reissue
3 Revised Statutes of Nebraska; to change provisions
4 relating to sewer system charges and fees; to authorize
5 storm water management programs for cities, counties, and
6 natural resources districts as prescribed; to provide
7 powers and duties; to harmonize provisions; to provide
8 severability; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-510, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 ~~18-510.~~ The terms For purposes of sections 18-501 to
4 18-512 and sections 10 to 13 of this act, sewage system, sewerage
5 system, storm sewer system, and disposal plant or plants as used
6 herein are defined to mean and include any system or works above or
7 below ground which has for its purpose any or all of the following:
8 The removal, discharge, conduction, carrying, treatment,
9 purification, storage, or disposal of the liquid and solid waste,
10 ~~and~~ night soil, and storm water of a municipality. It is intended
11 that such sections ~~18-501 to 18-512~~ may be employed in connection
12 with sewage projects which do not include the erection or
13 enlargement of a sewage disposal plant.

14 Sec. 2. Section 18-501, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 18-501. (1) Any city or village in this state is hereby
17 authorized to own, construct, equip, and operate, either within or
18 ~~without~~ outside the corporate limits of such municipality, a
19 sewerage system, ~~including any~~ storm sewer system, including the
20 natural drainage components of such system, or combination storm
21 and sanitary sewer system, and plant or plants for the treatment,
22 purification, storage, and disposal in a sanitary manner of the
23 liquid and solid wastes, sewage, ~~and~~ night soil, and storm water of
24 such municipality, ~~or~~ to extend or improve any existing storm or
25 sanitary sewer system or combination storm and sanitary sewer
26 system, or to establish storm water management programs.

27 (2) Any city or village ~~shall have~~ has authority to

1 acquire by gift, grant, purchase, or condemnation necessary lands
2 therefor, either within or ~~without~~ outside the corporate limits of
3 such municipality.

4 (3) For the purpose of owning, operating, constructing,
5 maintaining, and equipping such sewage disposal plant and sewerage
6 system, including any storm sewer system or combination storm and
7 sanitary sewer system, referred to in subsections (1), (2), and (4)
8 of this section, or improving or extending such existing system,
9 any city or village is authorized and empowered to make a special
10 levy of not to exceed three and five-tenths cents on each one
11 hundred dollars upon the taxable value of all the taxable property
12 within any such municipality. The proceeds of the tax may be used
13 for any of the purposes enumerated in this section and for no other
14 purpose.

15 (4) In the event the present or proposed sewage disposal
16 system or storm sewer system of any city or village does not comply
17 with the provisions of any other law relating to sewer systems,
18 sewage disposal, or water pollution, such city or village shall
19 levy each year a tax of seven cents on each one hundred dollars of
20 taxable valuation for such purpose until sufficient funds are
21 available for the financing of a system in compliance with law. In
22 the event any city or village is otherwise raising funds for such
23 purpose, equivalent to such a levy, it shall not be required, in
24 addition thereto, to make such levy.

25 Sec. 3. Section 18-502, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 18-502. For the purpose of owning, operating,

1 constructing, and equipping such sewage disposal plant or sewerage
2 system, including any storm sewer system, or improving or extending
3 such existing system, or establishing storm water management
4 programs and improvements, a municipality may issue revenue bonds
5 therefor. Such revenue bonds, ~~as provided in this section,~~ shall
6 not impose any general liability upon the municipality but shall be
7 secured only by the revenue as ~~hereinafter provided~~ of such utility
8 as provided in sections 18-501 to 18-512 and section 1 of this act.
9 Such revenue bonds shall be sold for not less than par and bear
10 interest at a rate set by the city council. The amount of such
11 revenue bonds, either issued or outstanding, shall not be included
12 in computing the maximum amount of bonds which the ~~said~~
13 municipality may be authorized to issue under its charter or any
14 statute of this state.

15 Sec. 4. Section 18-503, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 18-503. The governing body of such municipality may make
18 all necessary rules and regulations governing the use, operation,
19 and control ~~thereof~~ of a disposal plant and sewerage system,
20 including any storm sewer system pursuant to section 18-501. The
21 governing body may establish just and equitable rates or charges to
22 be paid to it for the use of such disposal plant and sewerage
23 system, including any storm sewer system, by each person, firm, or
24 corporation whose premises are served thereby. If the ~~service use~~
25 charge so established is not paid when due, such sum may be
26 recovered by the municipality in a civil action, or it may be
27 certified to the tax assessor and assessed against the premises

1 served, and collected or returned in the same manner as other
2 municipal taxes are certified, assessed, collected, and returned.
3 Charges to be paid for the use of a storm sewer system shall be
4 proportionate to the storm water contribution of the premises
5 served and based upon sound engineering principles, as determined
6 by the municipality, and may include factors such as impervious
7 land surfaces and land uses. Credit against the use charges shall
8 be given for properly designed, installed, and maintained storm
9 water quantity and quality best management practices.

10 Sec. 5. Section 18-504, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 18-504. (1) Revenue bonds which are issued, as provided
13 in section 18-502, shall not be a general obligation of the
14 municipality, but shall be paid only out of the revenue received
15 from the ~~service use~~ charges as provided in section 18-503.

16 (2) If a ~~service use~~ rate is charged, as a part of the
17 revenue, as provided in subsection (1) of this section, to be paid
18 as ~~herein~~ provided in this section, such portion thereof as may be
19 deemed sufficient shall be set aside as a sinking fund for the
20 payment of the interest on ~~said bonds~~, such bonds and the principal
21 thereof at maturity.

22 (3) It shall be the duty of the governing body of the
23 municipality to charge rates for the ~~service use~~ of the sewerage
24 system, including any storm sewer system, as referred to in
25 subsection (1) of this section, which rates shall be sufficient, at
26 all times, to pay the cost of operation and maintenance thereof and
27 to pay the principal of and interest upon all revenue bonds issued,

1 under the provisions of section 18-502, to pay the cost of
2 development, establishment, and implementation of storm water
3 management programs, and to carry out any covenants that may be
4 provided in the ordinance authorizing the issuance of any such
5 bonds.

6 (4) The holders of any of the revenue bonds or any of the
7 coupons of any revenue bonds, issued under subsection (1) of this
8 section, in any civil action, mandamus, or other proceeding, may
9 enforce and compel the performance of all duties required by this
10 section and the covenants made by the municipality in the ordinance
11 providing for the issuance of such bonds, including the making and
12 collecting of sufficient rates or charges for the specified
13 purposes and for the proper application of the income therefrom.

14 Sec. 6. Section 18-505, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 18-505. (1) For the purpose of providing for such sewage
17 disposal plant and sewerage system, including any storm sewer
18 system, or improving or extending such existing system, any such
19 municipality may also enter into a contract with any corporation
20 organized under or authorized by the laws of this state to engage
21 ~~in the business herein mentioned~~, to receive and treat, in the
22 manner ~~hereinbefore mentioned~~, the sewage and ~~night soil thereof~~,
23 described in section 18-501, sewage, night soil, or storm water of
24 the municipality and to construct, and provide the facilities and
25 services ~~as hereinbefore described~~ in sections 18-501 to 18-507 and
26 section 1 of this act.

27 (2)(a) Such contract may also authorize the corporation

1 to charge the owners of the premises served ~~such a service rate~~
2 ~~therefor~~ a use rate as the governing body of such municipality may
3 determine to be just and reasonable, or (b) the municipality may
4 (i) contract to pay the ~~said~~ corporation a flat rate for such
5 service, and pay ~~therefor~~ for the service out of its general fund
6 or the proceeds of any tax levy applicable to the purposes of such
7 contract, or (ii) assess the owners of the property served a
8 reasonable charge ~~therefor~~ for the service to be collected ~~as~~
9 ~~hereinbefore~~ provided in section 18-503 and paid into a fund to be
10 used to defray such contract charges.

11 Sec. 7. Section 18-507, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 18-507. Whenever the governing body of any city or
14 village ~~shall have~~ has ordered the installation of a sewerage
15 system and sewage disposal plant or the improvement or extension of
16 an existing system, including any storm sewer system, the fact that
17 such order was issued shall be recited in the official minutes of
18 the governing body. The ~~said~~ governing body shall thereupon
19 require that plans and specifications be prepared of such sewerage
20 system and sewage disposal plant, including any storm sewer system,
21 or such improvement or extension. Upon approval of such plans, the
22 governing body shall thereupon advertise for sealed bids for the
23 construction of ~~said~~ the improvements once a week for three weeks
24 in a legal paper published in or of general circulation within ~~said~~
25 the municipality, and the contract shall be awarded to the lowest
26 responsible bidder.

27 Sec. 8. Section 18-508, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 18-508. The owner of any sewerage system or sewage
3 disposal plant, including any storm sewer system, provided for in
4 sections 18-501 to 18-507, and section 1 of this act or the
5 municipality, is hereby authorized to extend the same beyond the
6 limits of the city or village which it serves, under the same
7 conditions as nearly as may be as within such corporate limits and
8 to charge to users of its services reasonable and fair rates
9 consistent with those charged or which might be charged within such
10 corporate limits and consistent with the expense of extending and
11 maintaining the same for the users thereof outside such corporate
12 limits at a fair return to the owner thereof. The mayor and city
13 council of any city or the board of trustees of any village shall
14 have authority to enter into contracts with users of such sewerage
15 system, except that ~~PROVIDED~~, no contract shall call for
16 furnishing of such service for a period in excess of twenty years.

17 Sec. 9. Section 18-509, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 18-509. (1) The mayor and city council of any city or
20 the board of trustees of any village, in addition to other sources
21 of revenue available to the city or village, may by ordinance set
22 up a rental or use charge, to be collected from users of any system
23 of sewerage, including any storm sewer system, and provide methods
24 for collection thereof. The charges shall be charged to each
25 property served by the sewerage system or storm sewer system, shall
26 be a lien upon the property served, and may be collected either
27 from the owner or the person, firm, or corporation requesting the

1 service. Charges to be paid for the use of a storm sewer system
2 shall be proportionate to the storm water contribution of the
3 premises served and based upon sound engineering principles, as
4 established by the municipality, and may include factors such as
5 impervious land surfaces and land uses. Credit against the use
6 charges shall be given for properly designed, installed, and
7 maintained storm water quantity and quality best management
8 practices.

9 (2) All money raised from the charges, referred to in
10 subsection (1) of this section, shall be used for maintenance or
11 operation of the existing system, for payment of principal and
12 interest on bonds issued as is provided for in section 17-925,
13 18-502, 18-506, or 19-1305, ~~or~~ to create a reserve fund for the
14 purpose of future maintenance or construction of a new sewer system
15 for the city or village, or to develop, establish, and implement
16 storm water management programs. Any funds raised from ~~this~~ such
17 charge shall be placed in a separate fund and not be used for any
18 other purpose or diverted to any other fund.

19 Sec. 10. The provisions of sections 18-501 to 18-512 and
20 section 1 of this act authorizing a municipality to establish use
21 charges based upon impervious land surface and land uses for the
22 use of a storm sewer system and the development, establishment, and
23 implementation of storm water management programs shall be
24 applicable only to cities of the metropolitan, primary, or first
25 class which are required by federal law to (1) develop, establish,
26 and implement storm water management programs and secure a storm
27 water discharge permit under the National Pollutant Discharge

1 Elimination System and (2) establish a credit against such charges
2 based on properly designed, installed, and operating storm water
3 quantity and quality best management practices.

4 Sec. 11. A county board by resolution may establish
5 storm water management areas and implement storm water management
6 programs within the county. For purposes of funding the cost of
7 capital improvements and paying the operational and maintenance
8 costs of a county storm water management program in a county's
9 storm water management area, (1) a county encompassing a city of
10 the metropolitan, primary, or first class that is required by
11 federal law to develop, establish, and implement storm water
12 management programs and secure a storm water discharge permit under
13 the National Pollutant Discharge Elimination System, or (2) a
14 county that is required by federal law to develop, establish, and
15 implement its own storm water management programs and secure such a
16 permit may, by resolution of its county board, adopt a system of
17 storm water management charges and impose such charges against real
18 property in such storm water management area, issue revenue bonds
19 or refunding bonds payable from the proceeds of such charges, and
20 establish a credit against such charges based on properly designed,
21 installed, and operating storm water quantity and quality best
22 management practices all upon such terms as the county board by
23 resolution determines are reasonable. Such charges shall be
24 designed to be proportionate to the storm water runoff contribution
25 of such real property and based upon sound engineering principles
26 that may include factors such as impervious surface area and land
27 uses. Credit against the charges shall be given for properly

1 designed, installed, and maintained storm water quantity and
2 quality best management practices. Such charges shall be collected
3 in the same manner as ad valorem taxes or in such other manner as
4 the county board determines appropriate and shall not be deemed to
5 be special benefit assessments. The county board shall provide an
6 appeals process for aggrieved parties. A county shall not impose
7 storm water management charges against real property that is being
8 charged with storm water management charges or charges for the use
9 of a storm sewer system by a city of the metropolitan, primary, or
10 first class that is required by federal law to develop, establish,
11 and implement its own storm water management programs and secure a
12 storm water discharge permit under the National Pollutant Discharge
13 Elimination System. Any funds raised from the charges authorized
14 by this section shall be placed in a separate fund and shall not be
15 used for any purpose other than for storm water management
16 programs.

17 Sec. 12. The board of directors of a natural resources
18 district may by resolution establish storm water management areas
19 and implement storm water management programs within the district.
20 For purposes of funding the cost of capital improvements and paying
21 the operational and maintenance costs of a storm water management
22 program in a natural resources district's storm water management
23 area, a natural resources district encompassing a city of the
24 metropolitan, primary, or first class that is required by federal
25 law to develop, establish, and implement storm water management
26 programs and secure a storm water discharge permit under the
27 National Pollutant Discharge Elimination System may, by resolution

1 of its board of directors, adopt a system of storm water management
2 charges and impose such charges against real property in such storm
3 water management area, issue revenue bonds or refunding bonds
4 payable from the proceeds of such charges, and establish a credit
5 against such charges based on properly designed, installed, and
6 operating storm water quantity and quality best management
7 practices all upon such terms as the board of directors, by
8 resolution, determines are reasonable. Such charges shall be
9 designed to be proportionate to the storm water runoff contribution
10 of such real property and based upon sound engineering principles
11 that may include factors such as impervious surface area and land
12 uses. Credit against the charges shall be given for properly
13 designed, installed, and maintained storm water quantity and
14 quality best management practices. Such charges shall be collected
15 in the same manner as ad valorem taxes or in such other manner as
16 determined appropriate by the board and shall not be deemed to be
17 special benefit assessments. The board shall provide an appeals
18 process for aggrieved parties. A natural resources district shall
19 not impose storm water management charges against real property
20 that is being charged with storm water management charges or
21 charges for the use of a storm sewer system by a county or by a
22 city of the metropolitan, primary, or first class that is required
23 by federal law to develop, establish, and implement its own storm
24 water management programs and secure a storm water discharge permit
25 under the National Pollutant Discharge Elimination System. Any
26 funds raised from the charges authorized by this section shall be
27 placed in a separate fund and shall not be used for any purpose

1 other than for storm water management programs.

2 Sec. 13. Agricultural land as defined in section 77-1359
3 shall be exempt from the imposition of charges for the use of a
4 storm sewer system and for storm water management programs when
5 such charges are based upon impervious land surfaces, land uses,
6 and storm water quantity and quality best management practices
7 under sections 10 to 12 of this act.

8 Sec. 14. If any section of this act or any part of any
9 section is declared invalid or unconstitutional, the declaration
10 shall not affect the validity or constitutionality of the remaining
11 portions.

12 Sec. 15. Original sections 18-501 to 18-505 and sections
13 18-507 to 18-510, Reissue Revised Statutes of Nebraska, are
14 repealed.